

Notice of Allowability

Application No.

10/501,328

Examiner

Patricia L. Hailey

Applicant(s)

REISACHER ET AL.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' Request for Continued Examination filed on September 18, 2006.
2. ☒ The allowed claim(s) is/are 1 and 4-13.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 18, 2006, has been entered.

Applicants' submission includes an amendment, in which claim 3 has been canceled and new claims 11-13 have been added.

Claims 1 and 4-13 are now pending in this application.

Declaration under 37 CFR 1.132

2. The Declaration under 37 CFR 1.132 filed September 12, 2006, is sufficient to overcome the rejection of claims 1 and 3-9 as being unpatentable over Nyssen (USP 6,646,023).

Allowable Subject Matter

3. Claims 1 and 4-13 are allowed.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest the claimed pigment granules having an average particle size of from 50 to 5000 micrometers and a BET surface area

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less than or equal to 15 m²/g, said pigment granules consisting of (A) at least one pigment and (B) at least one nonionic surface-active additive based on polyethers, wherein component (B) comprises ethylene oxide- or propylene oxide- or mixed ethylene oxide/propylene oxide adducts with amines or alcohols, or ethylene oxide/propylene oxide copolymers.

Schneider et al. (U. S. Patent No. 5,681,876) disclose pulverulent pigment preparations comprising an organic or inorganic pigment, a compound from the group consisting of, inter alia, alkoxyated fatty alcohols and alkoxyated fatty amines, a water soluble mixture of polyvinyl alcohol and vinyl alcohol or of vinyl alcohol copolymers, and further customary additives.

Although this reference teaches percentage ranges of the pigment and the aforementioned compound comparable to that respectively claimed, Applicants' claimed pigment granules, in view of the claim language "consisting of", exclude the presence of other components.

Further, Schneider et al. at col. 6, lines 60-63 disclose that Patentees' preparations exhibit particle sizes such that no more than 3% of the particles are larger than 1 micrometer, and that there are no fractions greater than 3 micrometers. Although the reference also discloses that the particle size of the preparations depends on that of the pigment suspension employed and is expediently adjusted by the choice of the combination of auxiliaries so as to provide flowability and ease of meterability (col. 7, lines 5-8), there is no reasonable suggestion to optimize the particle size from 3 micrometers to between 50 and 5000 micrometers.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

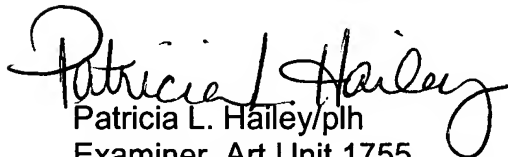
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia L. Hailey/plh
Examiner, Art Unit 1755
September 25, 2006


J.A. LORENZO
SUPERVISORY PATENT EXAMINER